

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }
N.A. JEPPSSON }

Appearances:

For Appellant: N. A. Jeppsson, in propria persona

For Respondent: Burl D. Lack, Chief Counsel

O P I N I O N

This appeal is made pursuant to Section 19057 of the Revenue and Taxation Code from the action of the Franchise Tax Board in denying the claim of N. A. Jeppsson for refund of personal income tax in the amount of \$99.60 for the year 1950.

In 1946 Appellant paid \$5,528.00 for shares of stock in a railroad company. In 1947 he sold one-fifth of those shares for \$160.00. In 1950 the certificates for his remaining shares were stolen. On his personal income tax return for that year he deducted from income the purchase price of the stock represented by the stolen certificates.

In response to a subsequent inquiry of the Franchise Tax Board Appellant stated that the shares of stock had no value immediately prior to the theft. He disclosed that in 1944 the railroad's property was turned over to trustees pursuant to a reorganization proceeding under Section 77 of the Federal Bankruptcy Act. In 1948 a Federal court approved, and in 1949 confirmed, a reorganization plan which eliminated the stockholders from participation. In 1950, pursuant to the plan, a newly formed company acquired the dissolved company's property, with only the bondholders' interests surviving the reorganization. On the basis of this information the Franchise Tax Board determined that Appellant did not sustain a loss and was not entitled to a deduction under Section 17306(c) of the Revenue and Taxation Code, relating to losses by theft, or Section 17307, relating to securities becoming worthless during the taxable year,

It is clear that the theft of certificates representing shares of stock which had already become worthless did not, under any theory, give rise to a pecuniary loss. Appellant now contends, however, that he is entitled to a loss deduction for 1950 on the ground that the stock became worthless in that year,

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During the year in question, Section 17307 of the Revenue and Taxation Code (now Section 17206) allowed a deduction for stock becoming worthless within the taxable year. It is well settled that in the absence of an appeal, the entry of an order in bankruptcy proceedings confirming a plan of reorganization which eliminates stockholders from participation is a final and identifiable event establishing the worthlessness of the stock. (Edward C. Lawson, 42 B.T.A. 1103; Walter L. Maas, B.T.A. Memo., Dkt. No. 101789, entered July 22, 1941; Mortimer J. Pox, B.T.A. Memo., Dkt. No. 102136, entered December 17, 1941; Milton A. Holmes, T.C. Memo., Dkt. No. 6315, entered February 27, 1946. Cf. Carl E. Anderson, T.C. Memo., Dkt. No. 4377, entered June 5, 1946.) There is no indication here that an appeal was taken from the order of confirmation in 1949, and, accordingly, we conclude that the stock in question became worthless prior-to the year 1950.

O R D E R

Pursuant to the views expressed in the Opinion of the Board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to Section 19060 of the Revenue and Taxation Code, that the action of the Franchise Tax Board in denying the claim of N. A. Jeppson for refund of personal income tax in the amount of \$99.60 for the year 1950 be and the same is hereby sustained.

Done at Los Angeles, California, this 16th day of October, 1957, by the State Board of Equalization.

Robert E. McDavid, Chairman

J. H. Quinn, Member

Geo. R. Reilly, Member

Paul R. Leake, Member

_____, Member

ATTEST: Dixwell L. Pierce, Secretary